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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,388	06/13/2001	Yoshikazu Shingu	SHC0131	5198

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EXAMINER

WEBB, JAMISUE A

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 04/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/880,388

Applicant(s)

SHINGU ET AL.

Examiner

Jamisue A. Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: The applicant has used the phrase "said wings being formed on the inner exposed surfaces thereof with a plurality of fine fusion spots", this phrase can be confusing and lead one to think the wings are actually being formed on something, as opposed to the fusion spots being formed on the wings. The examiner suggests the language "a plurality of fine fusion spots being formed on the inner exposed surface of said wings". Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kline et al. (5,957,908).

5. With respect to Claims 1, 3 and 4: Kline discloses the use of a disposable diaper (20), a topsheet (24), backsheet (26), core (28), front waist region (46), rear waist region (44), crotch region (48), wings (62, 64) formed on the rear portion and extending outward (See Figures 1-7). Kline discloses mechanical fasteners (30) located on inner surfaces of the wings (See Figure 7). Kline also discloses the wings being made of thermoplastic fibers (column 15, lines 29-67) and having fine fusion spots (250), where there is a greater density of fusion spots on the outward region, than in the inward region (See Figure 7). Kline discloses the wings being made of a laminate of two layers, where the layers are bonded at spots 250, using methods such as heat, pressure or ultrasound (column 16, lines 28-30). It is the examiner's position that it is impossible to laminate two sheets together, using a heating method, pressure method or ultrasonic method from a non-exposed surface, or from the inside. Therefore, it is inherent in the method itself that when laminating two pieces of materials using heat, pressure or ultrasonic means, then the spots must be formed on the outside surface of at least one of the layers.

6. Kline however, does not disclose expressly that the fine fusion spots are located on the inner exposed surfaces of the wings. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to have the fine fusion spots on the inner exposed surfaces of the wings because applicant has not disclosed that having the fine fusion spots on the inner exposed surfaces of the wings provides an advantage, or is used for any particular purpose or solves a stated problem. One of ordinary skill in the art furthermore, would have expected Applicant's

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invention to perform equally well with either the fine fusion points disposed on a surface taught by Kline, or the claimed inner exposed surfaces because both are used for the same purpose and perform the same function of providing increased strength and stiffness in areas of the bonds. Therefore, it would have been an obvious matter of design choice to modify Kline to obtain the invention as specified in Claim 1.

7. With respect to Claim 2: Kline discloses the outer regions of the flaps are denser in the fine fusion spots, therefore being stiffer than the inner region.

Response to Arguments

8. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

9. The applicant's representative has argued that fine fusion spots forms fastener holder zones and that is the reason the spots are on the inner exposed surface. However, this is not what the specification states. The specification states that the fasteners are peelably engaged with region 41 and the fusion spots are used for stiffness and tensile strength and just happen to be located in region 41. The specification does not state that the fine fusion spots are what hold the fasteners in place.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw

April 7, 2003


WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700